

UNIVERSITY OF TENNESSEE SYSTEM POLICY FISCAL

POLICY NO.: FI0125 SUBJECT: CONFLICT OF INTERESTS

EFFECTIVE: 10/01/2002

REVISION NO: 2

OBJECTIVE:

To define conflicts of interests for university employees, provide applicable laws on prohibited conflicts, and provide employees and campus/unit reporting requirements.

POLICY:

General Policies

1. **Purpose.** Objectivity and integrity are essential qualities for employees of any organization, and particularly for those who are engaged in the service of a comprehensive public university. If a public university is to carry out its missions in the areas of instruction, research, and public service with unquestioned credibility, its employees must maintain the highest levels of integrity and objectivity as they perform their duties. The purpose of this policy is to provide guidelines to help the faculty and staff of the University of Tennessee maintain these qualities in situations that may involve a conflict of interests.
2. **Definitions.** For the purpose of this policy, an employee's financial interest includes the interest of the employee's spouse (whether or not they commingle assets) and the interest of the employee's dependent children (including step- and foster children). In any given circumstance, an employee's financial interest also may include the interest of nondependent children and parents.

Note: A dependent child is under 24 and unmarried; a nondependent child is 24 and older or married.

3. **General Principles.** Faculty and staff of the University of Tennessee are expected to take all reasonable precautions to ensure that their outside financial interests do not place them in conflict with carrying out their duties and responsibilities as employees of the university. Generally, a conflict of interests exists when one of the following conditions exists.
 - a. An employee allows outside financial interests to interfere with or compromise judgment and objectivity with respect to duties and responsibilities to the university and sponsoring organizations.
 - b. An employee makes university decisions or uses university resources in a manner that results in or is expected to result in:
 - Personal financial gain or financial gain for his or her relatives; or
 - An unfair advantage to or favored treatment for a third party outside the university.

- c. An employee allows outside financial interests to affect the design, conduct, or reporting of research.
4. **State Law.** Certain conflicts of interests violate state law and may result in criminal and civil penalties (see the attached state law reference document below for applicable sections of *Tennessee Code Annotated*).
5. **Related Policies.** The university has additional policies addressing conflicts of interests. Such policies are in effect for the Board of Trustees and for consultants to the university (see **FISCAL POLICY FI0420**).

Note: Failure to comply with this policy may result in disciplinary action, which could include termination.

Examples of Conflicts of Interests

6. In accordance with the principles stated above, the following situations are examples of prohibited conflicts of interests and **do not constitute an all-inclusive list of prohibited conflicts**.

Note: The financial interest of a spouse or dependent child is considered the employee's interest. The financial interest of nondependent children and parents must be reported and in any given case may be considered the employee's interest.

- a. Serving as a member of the board of directors for, serving as a consultant to, or holding an office or a management position in an outside entity **and**:
 - The employee procures or influences the procurement of goods or services from that entity for the university; **or**
 - The employee uses his or her university position to obtain favored treatment for or to provide an unfair advantage to that entity.
- b. Holding more than a 5 percent financial interest (or 5 percent combined interest of the employee, spouse, and dependent child) in an outside venture **and**:
 - The employee procures or influences the procurement of goods or services from that venture for the university; **or**
 - The employee uses his or her university position to obtain favored treatment for or to provide an unfair advantage to that venture.
- c. Soliciting or accepting gifts, gratuities, benefits, or favors of monetary value from a person or an entity:
 - In return for influencing an employee in the discharge of his or her university duties; **or**
 - While being in a position to obtain favored treatment for or provide an unfair advantage to that person or entity.
- d. Selling any products or services to the university or other state agency while an employee or within six months after termination of active employment with the university.

This prohibition applies to sales by:

- The employee,
- A business in which the employee is the sole proprietor,
- A business in which the employee is a partner, or

- A business in which the employee has a controlling interest (owns or controls the largest number of outstanding shares owned by any single individual or business).

This prohibition does *not* apply to:

- The purchase of textbooks, stage plays, and other copyrighted literary property for which the employee receives royalties from a distributor in which the employee does not own a controlling interest.
- Sole-source suppliers, unless the employee-supplier also procures or influences the procurement of the particular product or service for the university.

Note: If the sole-source exception allows an employee to sell products or services to the university, the employee's interest must be publicly acknowledged at the time of the sale.

- e. Using confidential or official university information in any manner that results in or is expected to result in personal financial gain or financial gain for the employee's relatives or that provides financial gain or an unfair advantage to a third party.

Employee Reporting Requirements

7. All employees are required to take the initiative and report in writing (e.g., memo) to their immediate supervisor any conflict of interests between their university duties and responsibilities and their outside interests. In addition, employees (except term and students) will be notified annually to disclose outside interests on the form provided by the university (see the outside interest disclosure form for faculty and staff below). This form requires the disclosure of specific outside interests that may or may not represent conflicts of interests. Also, employees may be required periodically to complete a disclosure form whether or not they have interests or activities to disclose.

Reporting requirements are as follows:

- a. All faculty and exempt staff must have a completed disclosure form on file whether or not they have interests or activities to disclose.
- b. All employees (except term and student) will receive an annual notification to disclose outside interests and activities. Once an employee discloses any outside interests or activities, he or she must file a disclosure form annually as long as the interest or activity exists.
- c. New employees (except term and student) are required to complete and file a disclosure form within 30 days of their effective employment date whether or not they have interests or activities to disclose.
- d. Senior administrative personnel designated by the president or the chief financial officer (or designee) are required to file a disclosure form with the General Counsel's Office by July 30 each year (see form below).
- e. Employees involved in research (i.e., investigators) must have disclosed outside interests that may be affected by the research before proposals are submitted to funding agencies. "Investigator" means the principal investigator, co-principal investigators, graduate assistants, and any other person at the university who is responsible for the design, conduct, or reporting of research activities funded or proposed for funding. Such employees must keep their disclosures updated for the duration of the project. Examples

of such interests include, but are not limited to, receiving payments for services exceeding \$10,000, having equity interest exceeding 5 percent **or** \$10,000, and holding intellectual property rights.

- f. Although not necessarily prohibited, certain outside interests or activities may be conflicts and must be disclosed, such as:
 - Engaging in a partnership, consulting relationship, employment relationship, or other outside venture with other university employees or students. **Note: HUMAN RESOURCES POLICY 122** prohibits university supervisory staff from hiring employees in their line of authority for personal services.
 - Engaging in university research sponsored by an organization in which the employee has more than a 5 percent **or** \$10,000 financial interest.
 - Having a financial interest (including, but not limited to, receiving payments for services exceeding \$10,000, having equity interest exceeding 5% **or** \$10,000, and holding intellectual property rights) in an outside venture that would reasonably appear to be affected by any research conducted by the employee.

Campus or Unit Requirements

8. Chief business officers are responsible for ensuring that their campuses or units:
 - a. Present and discuss this policy with new employees during their orientation.
 - b. Require all faculty and exempt staff to have an outside interests disclosure form on file whether or not they have interests or activities to disclose.
 - c. Notify employees annually of their obligation to disclose outside interests and activities and of where to file the disclosure form.
 - d. Provide instructions to department heads and supervisors to ensure that they understand their responsibilities in reviewing and identifying conflicts of interests.
 - e. Establish a committee(s) to review the information disclosed by employees; determine whether a conflict of interests exists; and notify employees of the results of the review.
 - f. Maintain employees' disclosure forms in their personnel files.
 - g. Work with employees to prevent or resolve conflicts. Resolution can include eliminating such conflicts or managing conflicts that cannot be eliminated. Conflicts can be managed through independent reviewers, reassignment of responsibilities, modifying the research plan, or other methods to reduce or minimize the effects of a conflict.
 - h. Inform the chief financial officer (or designee) of conflicts of interests in the following ways: (1) report annually any conflicts of interests that were disclosed or became known over the past twelve months and their resolution and (2) report immediately any conflicts of interests that cannot be resolved.
 - i. Document the review of information disclosed by employees and the actions taken to resolve any conflicts (see forms). For sponsored programs, all documentation related to disclosures and the elimination or management of conflicts must be maintained for three years either after the close of the related awards or any government action involving these records.
 - j. Report immediately any conflicts of interests that cannot be resolved to sponsoring organizations according to their requirements.
 - k. Provide sponsoring organizations with required certifications that, for example, the university's conflict of interests policy was implemented, disclosures were made, and identified conflicts are being managed satisfactorily, etc.

RELATED POLICIES:

- HR0122. EMPLOYMENT OF UNIVERSITY EMPLOYEES BY OTHER UNIVERSITY PERSONNEL
- FI0420. CONTRACTS

PROCEDURES:

Knoxville: <http://web.utk.edu/~dfinance/fiscal-policy.shtml>

Health Science Center: http://www.utmem.edu/policies/w932_document_list.php?app=FSC

Space Institute:

Chattanooga:

Martin: <http://www.utm.edu/departments/finadmin/procedures.php>